

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOHN F. TURPIN,  
AMY POWELL and STEPHEN D. FOLLETT

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Appeal No. 2006-0002  
Application 09/935,531

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NOTIFICATION OF NON-COMPLIANCE REGARDING ORAL HEARING

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This application was received electronically at the Board of Patent Appeals and Interferences on June 23, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that an Appeal Brief was filed on April 22, 2004. The last sentence appearing on page 4 of the Appeal Brief states:

An ORAL hearing is requested.

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37 CFR § 1.194 (2004) states:

(b) If appellant desires an oral hearing, appellant must file, in a separate paper, a written request for such hearing accompanied by the fee set forth in § 1.17(d) within two months from the date of the examiner's answer.  
[Emphasis added]

Since the appellants' request for oral hearing was not filed in a separate paper as required by 37 CFR § 1.194(b), the appellants' request for an oral hearing cannot be granted.

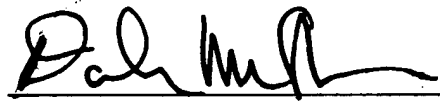
If the appellants still desire an oral hearing, a petition under 37 CFR § 1.183 must be filed **within two weeks** of the mail date of this notice. Such a petition must include (1) a request to suspend the separate paper requirement of 37 CFR § 1.194(b); (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 1.194(b) be suspended or waived; and (3) be accompanied by the petition fee set forth in 37 CFR § 1.17(h). This **two week time period** for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a). The failure to timely file a petition under 37 CFR

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§ 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).<sup>1</sup>

By Order of the:

BOARD OF PATENT APPEALS  
AND INTERFERENCES



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<sup>1</sup> If the appellants decide not to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.